

MT LEGISLATIVE HISTORY

Chapter 58 19 85

Bill H 56 S _____

Original bill & hist. C

H. Committee on Highways + Trans.

S. Committee on Taxation

Hearing Date(s) 1-8 C

Hearing Date(s) 1-18 C

_____ C

1-22 C

_____ C

_____ C

_____ C

_____ C

Date Out 1-8 C

DATE Out 1-22 C

np+ 1-8

np+ 1-22

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

	2/18	COMMITTEE REPORT-BILL DO PASS		
	2/19	2ND READING PASS	86	5
	2/20	3RD READING PASS	95	5
		TRANSMITTED TO SENATE		
	2/22	REFERRED TO TAXATION		
	3/08	HEARING		
	3/20	TABLED IN COMMITTEE		
HB 55		INTRODUCED BY GILBERT		
		ALLOW SADDLE-MOUNT TOWING OF THREE MOTOR VEHICLES		
	1/07	INTRODUCED		
	1/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
	1/29	HEARING		
	2/01	ADVERSE COMMITTEE REPORT		
	2/04	BILL KILLED	94	6
HB 56		INTRODUCED BY GILBERT		
		REDUCE RECORD RETENTION PERIOD RELATING TO SPECIAL FUEL		
	1/07	INTRODUCED		
	1/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
	1/08	HEARING		
	1/09	COMMITTEE REPORT-BILL DO PASS		
	1/11	2ND READING PASS	95	0
	1/12	3RD READING PASS	93	0
		TRANSMITTED TO SENATE		
	1/14	REFERRED TO TAXATION		
	1/18	HEARING		
	1/22	COMM REPORT-BILL CONCURRED AS AMENDED		
	1/23	2ND READING CONCURRED	49	0
	1/25	3RD READING CONCURRED	49	0
		RETURNED TO HOUSE WITH AMENDMENTS		
	3/05	2ND READING AMENDMENTS CONCURRED	93	0
	3/06	3RD READING AMENDMENTS CONCURRED	97	0
	3/09	SIGNED BY SPEAKER		
	3/11	SIGNED BY PRESIDENT		
	3/11	TRANSMITTED TO GOVERNOR		
	3/14	SIGNED BY GOVERNOR		
		CHAPTER NUMBER 58 EFFECTIVE DATE: 10/01/85		
HB 57		INTRODUCED BY GILBERT		
		REMOVE DRIVER CONTROL REQUIREMENT FROM TRUCK LEASING AGREEMENTS		
	1/07	INTRODUCED		
	1/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
	1/08	HEARING		
	1/30	COMMITTEE REPORT-BILL DO PASS		
	2/01	2ND READING PASS	97	0
	2/02	3RD READING PASS	91	0
		TRANSMITTED TO SENATE		
	2/06	REFERRED TO HIGHWAYS & TRANSPORTATION		
	3/12	HEARING		

1 HOUSE BILL NO. 56

2 INTRODUCED BY GILBERT

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE RECORD
5 RETENTION PERIOD TO 3 YEARS FOR SPECIAL FUEL USERS AND
6 DEALERS; AMENDING SECTION 15-70-323, MCA."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 15-70-323, MCA, is amended to read:

10 "15-70-323. Special fuel dealer's and special fuel
11 user's records. (1) Every special fuel dealer, special fuel
12 user, and every person importing, manufacturing, refining,
13 dealing in, transporting, or storing special fuel in this
14 state shall keep such records, receipts, and invoices and
15 other pertinent papers with respect thereto as the
16 department may require and shall produce them for the
17 inspection of the department at any time during the business
18 hours of the day.

19 (2) Said records, receipts, invoices, and other
20 pertinent papers shall be required to be kept for a period
21 of at least 5 3 years from the date on which the return to
22 which they relate was required to have been made."

23 NEW SECTION. Section 2. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

-End-

STATUS SHEET49th

LEGISLATIVE SESSION

COMMITTEE ON House Highways and Transportation

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 19	1-7-85	1-15-85	1-15-85	1-15-85					
HB 21	1-7-85	1-8-85	1-15-85	1-15-85					
HB 22	1-7-85	1-17-85	1-17-85	1-17-85					
HB 23	1-7-85	1-17-85	1-17-85	1-17-85					
HB 35	1-7-85	1-29-85	1-31-85		1-31-85				
HB 55	1-7-85	1-29-85	1-31-85		1-31-85				
HB 56	1-7-85	1-8-85	1-8-85	1-8-85					
HB 57	1-7-85	1-8-85	1-29-85	1-29-85					
HB 58	1-7-85	1-8-85	1-17-85	1-17-85					
HB 65	1-7-85	1-31-85	2-12-85			2-12-85			
HB 66	1-7-85	2-5-85	2-7-85 Table			2-21-85			
HB 86	1-7-85	2-5-85	2-7-85			2-7-85			
HB 89	1-7-85	1-29-85	1-29-85			1-29-85			
HB 126	1-9-85	2-5-85	2-12-85 Table						
HB 185	1-15-86	1-29-85	1-31-85	1-31-85					
HB 152	1-11-85	1-31-85	Table 2-7-85						

Use a separate sheet for Senate, House Bills, and Resolutions

There was no further discussion of House Bill 21 and the hearing was closed.

CONSIDERATION OF HOUSE BILL 56: Representative Bob Gilbert, District #22, sponsor of the bill, stated its objective is to reduce the record retention period to 3 years, for special fuel users and dealers; amending section 15-70-323, MCA. He told committee members the present 5 year retention requirement is costing the State additional dollars.

PROPOSERS: Mr. Ben Havdal, Montana Motor Carriers Association, stated House Bill 56 was simply a housekeeping bill to reduce the record retention requirement, which is presently longer than necessary, for both carriers and State records.

Mr. Norris Nichols, Administrator, Motor Fuels Tax Division, Department of Revenue, said he had no problem with the bill, which would bring Montana into compliance with 30 other states; as it is presently one of only 4 states with a 5 year record retention requirement.

There were no other proponents and no opponents of the bill. In closing, Representative Gilbert asked the Committee to give the bill favorable consideration.

DISPOSITION OF HOUSE BILL 56: Representative Keyser made a motion that House Bill 56 DO PASS. The motion was seconded by Representative Compton and given unanimous approval by the Committee.

CONSIDERATION OF HOUSE BILL 57: Representative Bob Gilbert, District #22, sponsor of the bill, said it would remove the driver control requirement from truck leasing agreements; amending section 60-12-611, MCA, thus alleviating workmen's compensation and related problems for lessors of such vehicles.

PROPOSERS: Mr. Ben Havdal, Montana Motor Carriers Association, told committee members the problem is in federal regulation of the Interstate Commerce Commission, which requires a lease agreement between the lessor (owner-operator), and the regulated carrier. He said Montana law needs to be changed to preclude development of an unwanted employer/employee relationship in the leasing process, adding the important element is that control is exercised by the carrier. Mr. Havdal stressed the bill does not address a bona fide employee, but independent contractors.

Mr. Wayne Budt, Administrator, Transportation Division, Public Service Commission, advised committee members of Commission support for the bill. In a prepared statement (Exhibit 2), he states Commission enforcement authority would not be diminished if the proposed section were amended.

There were no other proponents and no opponents of the bill and Representative Gilbert closed without further comment.

STANDING COMMITTEE REPORT

JANUARY 3

19⁹⁵

MR. SPEAKER

We, your committee on HOUSE HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 56

FIRST reading copy (white)
color

TO REDUCE THE RECORD RETENTION PERIOD TO 3 YEARS FOR
SPECIAL POPL USERS AND DEALERS; AMENDING SECTION 15-70-323. MCA.

Respectfully report as follows: That HOUSE Bill No. 56

DO PASS

CHAIRMAN--TOWE, TOM

NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: M-TU-W-TH-F

TIME: 8:00-10:00 A.M.

SECRETARY--AAGENES, NANCY

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0056	1/14	1/18	1/18 1/22	CONCUR AS AMENDED		1/22
GILBERT, BOB			REDUCE RECORD RETENTION PERIOD RELATING TO SPECIAL FUEL			
HB0096	1/26		4/4 Re-referred Natural Resources		NATURAL RESOURCES	
HOLLIDAY, GAY			OIL AND GAS OPERATOR MUST PAY INTEREST ON UNPAID ROYALTIES 60 DAYS AFTER DUE			
HB0101	2/12	3/08	3/19, 3/20, 3/27	CONCUR AS AMENDED		3/27
BROWN, DAVE			REVISION OF MOTORCYCLE LAWS IMPOSING A FEE IN LIEU OF TAX ON MOTORCYCLES			
HB0105	2/09	3/08	3/18	ADVERSE REPORT		3/18
MARKS, ROBERT L. (BOB)			REQUIRE STAB TO DECIDE APPEALS WITHIN 90 DAYS OR PAYMENT OF SALARY WITHHELD			
HB0122	2/11	3/08	3/11, 4/5, 4/17	TABLED		4/5
BROWN, DAVE			REVISE TAX INCENTIVE FOR NEW OR EXPANDING INDUSTRY			
HB0140	1/29	2/15		CONCUR		2/15
ASAY, TOM			PRORATION OF TAXES ON MOBILE HOMES ASSESSED AFTER SECOND PAYMENT DATE			
HB0154	1/29	2/15		CONCUR		2/15
PISTORIA, PAUL G.			REPEAL OF THE MONTANA ECONOMIC LAND DEVELOPMENT ACT			
HB0168	2/13	3/21	3/27, 4/5, 4/9	CONCUR AS AMENDED		4/9
DONALDSON, GENE			TO REQUIRE CAPITALIZATION OF NET INCOME METHOD FOR VALUING AG LANDS			
HB0171	2/13	3/07	3/9	CONCUR		3/9
SWITZER, L. DEAN			INCREASED INTEREST ON DELINQUENT PROPERTY TAXES			
HB0172	1/28	2/08	2/15	TABLED		2/15
SANDS, JACK			"LEASEHOLD IMPROVEMENTS" CLARIFIED FOR TAXATION PURPOSES			
HB0176	1/29	2/15		CONCUR		2/15
BARDANOUE, FRANCIS			AUTHORIZE PAYMENT OF COSTS RELATED TO TAX ANTICIPATION NOTES			

January 18, 1985

Senator Brown asked what affect these amendments would have on the fiscal note. That led to a discussion of the federal law which prohibits the state from taxing retirement railroad income. The committee was concerned that the tax preparation booklet and state tax forms made the exclusions difficult to understand, and further the committee wanted reassurance that bond income would not be taxed. Mr. Morrison said he had no objections to the amendments offered by Senator Hager.

Senator Towe asked if the fiscal note was included in the revenue estimates from the Budget Director and the Legislative Fiscal Analyst. Jim Oppedahl, of the Office of Budget and Program Planning, and Mr. Morrison of the Department of Revenue were directed to check into that.

Senator Towe directed a question to Ladd Shorey about the taxation of tax exempt income, particularly as it related to municipal bonds.

Senator Eck directed a question to Mary Craig, CPA and former Director of the Department of Revenue. Ms. Craig said the intentions were probably clear, but the bill could address some of these problems specifically. She said now anybody who files married filing separately will be paying taxes on even \$2.00 of social security income.

Senator McCallum said that folks on the tight budgets will not only have to pay the tax, but will have to pay a CPA to figure it out. Ms. Craig said that the form used was better than nothing. She said she figured taxes recently where the adjusted gross income was \$1,340 for the year and the person had to pay state tax on social security. She pointed out that older people do have interest income which is also taxed and that the process of change in the federal law caused the difficulties.

Senator Hager closed by saying that he was frustrated by the fiscal note. He did not know if the income was included in the Governor's budget. He said this is income Montana has never picked up before, that the Legislature has never acted on this issue. Further, he felt the Department of Revenue amendments would gut the intention of the bill.

Chairman Towe then closed the hearing on SB 72.

CONSIDERATION OF HB 56: Representative Robert Gilbert was then recognized as sponsor of HB 56. He said the bill simply reduced the record retention period for special fuel users from five to three years. He said the change would make Montana law conform with 30 other states and increase efficiency. He noted that the House passed the bill unanimously.

PROPOSERS

Ben Havdahl of the Montana Motor Carriers submitted a written statement in support of the bill (Exhibit 8).

OPPONENTS

There were no opponents to HB 56.

Questions from the committee were called for.

Senator Mazurek asked if Norris Nichols, Administrator of the Motor Fuel Tax Division, objected to the bill. Mr. Nichols said that the bill would help them by cutting down on their need for storage space.

Senator Mazurek then brought up a problem with the statute of limitations, which he felt should be changed to correspond to the record retention period. The committee directed Mr. Lear to prepare the amendments.

Senator Hager asked if this would apply to all fuel users and Mr. Norris said this applied primarily to diesel fuel. He explained that gasoline was already under a three year time period for record storage.

Senator Gilbert closed on HB 56 without comment.

FURTHER CONSIDERATION OF SB 37:

MOTION: Senator Halligan moved that SB 37 do pass.

Senator McCallum said that it seemed that the State Tax Appeal Board (STAB) was handling the problem as well as it could be and felt that STAB kept other parties from litigation. Senator Mazurek said he felt the bill kept parties from litigation and added that all those who had been party to these kinds of proceedings were in favor of the bill.

Senator Neuman was concerned that passing the bill would add to the work load of the district courts. Senator Mazurek said that STAB will have plenty of work with reappraisal and that it should not be burdened either.

Senator Lybeck said that with the decreased activity in the bar business it may not even be an issue.

Senator Eck said that while she would favor STAB hearings rather than passing more work to the district court; she felt that would not happen anyway and that the extra hearing would not be needed.

Senator Hager said that in addition information from Mr. Raundal of STAB they heard 10 appeals in 1982 of which three went to the district court, and 10 in 1981 of which 1 went to the district court. He said that STAB is a tax authority and should not have to deal with liquor license issues.

Senator Goodover asked about the cost of the process and Senator Mazurek estimated it at \$2,000 to \$5,000 per step.

January 22, 1985

Another of the Department amendments addresses the Legislative Auditor's exception to the Department practice regarding the use of in-state collection agencies. Exhibit 4 shows that exception.

Senator Hager said that he still wanted cost exempt from the offset. Mr. Morrison said if that were done the bill would be ineffectual. There was some further discussion about existing powers of the Department to offset tax refunds and garnish wages.

MOTION: Senator Brown moved that SB 49 be amended as follows:

1. Title, line 10.

Following: "AGENCY;"

Insert: "AND TO CLARIFY THE USE OF COMMERCIAL COLLECTION AGENCIES;"

2. Page 1, line 17.

Following: "taxes"

Insert: "after the time for appeal has expired"

3. Page 1, line 19.

Following: "except"

Strike: "state employees'"

Following: "wages"

Insert: "subject to the provisions of 25-13-614"

4. Page 1, lines 20 and 21.

Following: "benefits." on line 20

Strike: remainder of lines 20 and 21 in their entirety

5. Page 2.

Following: line 2

Insert: "(5) The department must provide the taxpayer with notice of the right to request a hearing under the contested case procedures of Title 2, Chapter 4, on the matter of the offset action or the department intent to file a claim on behalf of a taxpayer. A request for hearing must be made within 30 days of the date of the notice and such hearing, if requested, must be held within 20 days."

6. Page 2, lines 13 and 14.

Following: "state" on line 13

Strike: remainder of line 13 through "state" on line 14

The motion to amend SB 49 carried unanimously.

MOTION: Senator Halligan moved that SB 49 do pass as amended.

With Senators Brown, Eck, Halligan, Hirsch, Lybeck, Mazurek and Towe voting, yes; and Senators Goodover, Hager, McCallum, Neuman and Severson voting, no; the motion carried.

FURTHER CONSIDERATION OF HB 56:

MOTION: Senator Goodover moved that HB 56 be amended as is indicated in the Standing Committee Report attached here. The motion carried

January 22, 1985

unanimously.

MOTION: Senator Goodover moved that HB 56 as amended do pass.
The motion carried unanimously. Senator Goodover said that he
would carry HB 56 on the Senate floor.

FURTHER CONSIDERATION OF SB 32: MOTION: Senator McCallum moved
that SB 32 do pass.

Senator Towe called to the attention of the committee an Attorney
General's opinion dated December 31, 1984, saying that sugar
beets constitute business inventory.

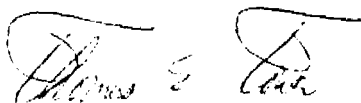
Charles Gravely representing the County Treasurer's Association
was recognized and pointed out the distinction between producer-
held and refinery-held sugar beets. Mr. Greg Groepper of the
Department of Revenue said that the test is if a corporation is
holding a product for resale, rather than a producer holding it
for sale, it is then business inventory.

Senator Severson said the committee should either tax all inven-
tory, or no inventory and not further fragment the tax system.

Senator Eck said she would need to see all such proposals before
voting on this one.

MOTION: Senator Mazurek moved as a substitute motion for all
motions pending that the committee adjourn. The motion carried
unanimously.

Senator Towe adjourned the meeting.



Chairman

STANDING COMMITTEE REPORT

January 22

85

19

MR PRESIDENT

Taxation

We, your committee on

House Bill

56

having had under consideration

No.

third

reading copy (blue
color)

REDUCE RECORD RETENTION PERIOD RELATING TO SPECIAL FUEL

House Bill

56

Respectfully report as follows: That

No.

be amended as follows:

1. Title, line 6.

Following: "DEALERS;"

Insert: "REDUCING THE STATUTE OF LIMITATIONS TO 3 YEARS FOR
ASSESSMENT OF DEFICIENCIES IN TAX REPORTED BY SPECIAL
FUEL USERS AND DEALERS;"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-70-323"

Insert: "AND 15-70-335"

2. Page 1, following line 22.

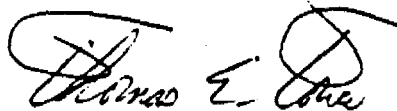
Insert: "Section 2. Section 15-70-335, MCA, is amended to read:
"15-70-335. Statute of limitation. Except in the case
of a fraudulent return or of neglect or refusal to make
a return, every deficiency shall be assessed under 15-70-331
within 5 3 years after the 25th day of the next succeeding
calendar month following the monthly period for which the
amount is proposed to be determined or within 5 3 years after
the return is filed, whichever period expires later."

Renumber subsequent section.

AND AS AMENDED
BE CONCURRED IN

DOES

DOES



Thomas E. Towe,

Chairman.



Report of the

HOUSE BILL NO. 56

INTRODUCED BY GILBERT

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE RECORD
RETENTION PERIOD TO 3 YEARS FOR SPECIAL FUEL USERS AND
DEALERS; REDUCING THE STATUTE OF LIMITATIONS TO 3 YEARS FOR
ASSESSMENT OF DEFICIENCIES IN TAX REPORTED BY SPECIAL FUEL
USERS AND DEALERS; AMENDING SECTION SECTIONS 15-70-323 AND
15-70-335, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-323, MCA, is amended to read:

"15-70-323. Special fuel dealer's and special fuel
user's records. (1) Every special fuel dealer, special fuel
user, and every person importing, manufacturing, refining,
dealing in, transporting, or storing special fuel in this
state shall keep such records, receipts, and invoices and
other pertinent papers with respect thereto as the
department may require and shall produce them for the
inspection of the department at any time during the business
hours of the day.

(2) Said records, receipts, invoices, and other
pertinent papers shall be required to be kept for a period
of at least 5 3 years from the date on which the return to
which they relate was required to have been made."

SECTION 2. SECTION 15-70-335, MCA, IS AMENDED TO READ:

"15-70-335. Statute of limitation. Except in the case
of a fraudulent return or of neglect or refusal to make a
return, every deficiency shall be assessed under 15-70-331
within 5 3 years after the 25th day of the next succeeding
calendar month following the monthly period for which the
amount is proposed to be determined or within 5 3 years
after the return is filed, whichever period expires later."

NEW SECTION. Section 3. Extension of authority. Any
existing authority of the department of revenue to make
rules on the subject of the provisions of this act is
extended to the provisions of this act.

-End-

REFERENCE BILL